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10/667,851	09/22/2003	John Eugene Merkley JR.	16342D1-US	1381

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DEERE & COMPANY  
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EXAMINER
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LIVERSEDGE, JENNIFER L

ART UNIT	PAPER NUMBER
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3684

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11/16/2009

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/667,851	<b>Applicant(s)</b> MERKLEY ET AL.	
	<b>Examiner</b> JENNIFER LIVERSEDGE	<b>Art Unit</b> 3684	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 27 August 2009.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-33 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-33 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>8/27/2009</u> .   | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Response to Amendment***

This Office Action is responsive to Applicant's amendment and request for continued examination of application 10/667,851 filed on August 27, 2009.

The amendment contains original claims: 2-10, 12-20, 22-24, 26.

The amendment contains amended claims: 1, 11, 21, 25.

The amendment contains previously presented claim: 27.

The amendment contains new claims: 28-33.

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on August 27, 2009 has been entered.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-10, 28, 31 and 31 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim s 1 and 31 recites the limitation

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"the preferential program" in the transferring step of claim 1 and the third line of claim

31. There is insufficient antecedent basis for this limitation in the claim.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 1-5, 7-9, 11-15, 17-19, 21-23 and 25-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Pub No. 2001/0047307 A1 to Bennett et al. (further referred to as Bennett), in view of US Pub No. 2003/0163401 A1 to Dines et al. (further referred to as Dines), in view of Marketing Research 7<sup>th</sup> ed. by Aaker, Kumar and Day (further referred to as Aaker), and further in view of US Pub 2002/0077867 A1 to Gittins et al. (further referred to as Gittens).

Regarding claims 1-2, 4-5, 7-9, 11-12, 14-15, 17-19, 21-23 and 25, Bennett discloses a method and system of facilitating an incentive program via an electronic data processing system (pages 1-15), comprising the steps of:

Establishing a library as a comprehensive list of available incentive programs, the library stored in a data storage device associated with the data processing system (paragraphs 55-58, 137, 143, 145-154);

Selecting the available incentive programs from the library of incentive programs through the discretion of a particular retailer servicing a particular consumer (paragraphs 137, 143, 154);

Searching the library or its selected, available incentive programs to select a tailored list of candidate incentive programs from the library of available incentive programs (paragraphs 66, 75-76, 137, 143, 145-155);

Making information accessible on the available candidate incentive programs in the tailored list to the particular producer via an interface (paragraphs 55-58, 66, 75-76, 131, 137, 143, 145-155);

Supporting selection of a preferential one of the available candidate incentive programs to the particular producer via an interface (paragraphs 137, 143, 146, 152-155); and

Transferring incentive program data from a program manager to a financial screening process via electronic communications [intended use - to reduce or eliminate duplicative reentry of the background data applicable to the incentive programs and the financial screening process associated with financing of the products] (paragraphs 17-

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18, 40-43, 55-57, 88, 95, 109, 124), where an application data capture module populates an application for the financial product based on the gathered background data (paragraph 156).

Bennett does not disclose receiving crop planning or background data of a particular producer and wherein the crop planning data is sent along with the incentive program to a financial screening process. However, Bennett discloses where informational data associated with the transaction may be sent with the incentive program data for financial screening (paragraph 127) and wherein financial is obtained based on the nature of the transaction (paragraphs 40-43) where a consumer can select products to be considered in the analysis of financial options. Dines discloses the offering of incentives and loans for agricultural related transactions (pages 1-5). It would be obvious to one of ordinary skill in the art at the time of the invention to modify the incentive offering and financial screening as disclosed by Bennett to adapt the agricultural incentive offering and financial screening as disclosed by Dines. The motivation would be that a database of incentives can be developed to include incentives related to any product or service, and the same process steps of reviewing the database review for identifying a preferred incentive as disclosed by Bennett and Dines applies to any types of goods or services.

Neither Bennett nor Dines disclose selecting incentive programs based on retailer preferences comprising a geographic region that the retailer services, historic sales, and a supplier relationship with one or more suppliers of the incentive programs. However, Aaker discloses selecting marketing programs based on retailer preferences

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comprising a geographic region that the retailer services and historic sales (pages 689-693). It would be obvious to one of ordinary skill in the art at the time of the invention to modify the providing of incentives and financial screening for various products as disclosed by the combination of Bennett and Dines to adapt the use of marketing techniques such as identifying a geographic area of interest and historic sales as disclosed by Aaker. The motivation would be that Aaker describes basic marketing principles which are employed in various areas of business. Bennett discloses filtering loan offerings based on lender criteria and it would be obvious to include as lender criteria basic business principals such as where a lender intends to do business, data such as previous sales history with an individual or organization, and the relationships where have been established with individuals and organizations. This is part of basic business practice and it would be obvious to incorporate such parameters into the filtering as disclosed by Bennett.

While none of Bennett, Dines nor Aaker disclose selecting incentive programs based on retailer preferences comprising a supplier relationship with one or more suppliers of the incentive programs, Gittins discloses retailer preferences based on a supplier relationship (paragraphs 370 and 393). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the selection of incentive programs based on user defined criteria following marketing strategies as disclosed by the combination of Bennett, Dines and Aaker to adapt the selection based on a supplier relationship as disclosed by Gittins. The motivation would be that Gittins provides another selection criteria which focuses on the supplier relationships and developing

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business relationships amongst suppliers in consideration of incentive and program selection criteria.

Regarding claims 3, 13 and 26 Bennett does not disclose where the crop planning or background data comprises one or more of [the list as provided in the claim language]. However, Dines discloses where the crop planning or background data comprises one or more of [the list as provided in the claim language] (pages 1-5). It would be obvious to one of ordinary skill in the art at the time of the invention to modify the information gathering for conducting a transaction as disclosed by Bennett to adapt the gathering of specific agricultural data as disclosed by Dines. The motivation would be to collect data relative to the transaction. While Bennett gathers data related to a product or service to be purchased as well as the individual desiring to make the purchase, the system would need to gather agricultural related data for offering incentives in the agricultural products and services.

Regarding claim 27, Bennett discloses returning the tailored list of the candidate incentive programs and potentially relevant incentive programs that would be applicable, but for a submitted query that fails to satisfy a minimum purchase or minimum transaction requirement (page 1, paragraphs 7-9).

Regarding claims 28-30, neither Bennett, Dines nor Aaker disclose the particular retailer limiting the incentive programs to certain provides among the suppliers.



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However, Gittins discloses limiting an incentive program to certain providers among the supplies (paragraphs 370 and 393). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the providing of select incentives related to agriculture products based on targeted marketing as disclosed by the combination of Bennett, Dines and Aaker to adapt limiting the providers as disclosed by Gittins. The motivation would be that as a general rule of business, recommendations are made based on generating a positive result, and selecting suppliers that would result in a positive result would make good business sense, consistent with a solid marketing program.

Claims 6, 10, 16, 20, 24 and 31-33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bennett, Dines and Aaker, and further in view of Official Notice.

Regarding claims 6 and 16, neither Bennett, Dines nor Aaker disclose translating a brand name into a generic name for comparison to program data. However, Examiner takes Official Notice that it is old and well known and would be obvious to one of ordinary skill in the art at the time of the invention to translate a brand name to a generic name in order to search a database of incentives related to the product. Organizing a database by generic name rather than brand name offers a broader search mechanism, whereby products are identified by generic name rather than brand name. For example, if a system user were looking for incentives on facial tissue, the user would return more "hits" on incentives if the search were conducted on facial tissue

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rather than on Kleenex. If a user searched for incentives on Kleenex, then only returns for the brand name would be returned. However, if the user searched for incentives on facial tissue, then returns for Kleenex brand, Puffs brand, Angel soft brand, as well as store brands and/or lesser well known brands, etc.

Regarding claims 10 and 20, neither Bennett, Dines nor Aaker disclose formatting data to be interpretable by a financial application. However, Examiner takes Official Notice that it is old and well known and would be obvious to one of ordinary skill in the art at the time of the invention to format data to be interpretable by a financial application. Data sharing requires that data be in a format which provides for the data to be transferred and processed, otherwise the process of data transfer would be ineffective. Bennett discloses where data is shared amongst parties of a transaction, ranging from a buyer to a seller to parties providing financing, and where data is passed back and forth between each of these parties. Therefore, the data must be in a format that enables a buyer to enter personal data, a seller to offer goods for sale, a financier to offer incentives and financing packages and wherein each of the parties is able to communicate through sharing data in a format which enables that communication.

Regarding claim 24, neither Bennett, Dines nor Aaker specifically disclose providing system access after receiving an identifier and password from parties accessing the system. However, Examiner takes Official Notice that it is old and well known and would be obvious to one of ordinary skill in the art to incorporate the use of

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party identifiers and passwords with the online incentive and financing as disclosed by Bennett. Sensitive personal data related to individuals and their potential purchases is stored in the Bennett system. The users of the system range from buyers to sellers to financiers, where each has access to the system, and it is old and well known and would be obvious to one of ordinary skill in the art to require identifiers and passwords for granting such access in order to protect the sensitive data which has been gathered and stored by the Bennett system. Bennett discloses where each of the above mentioned parties may begin a transaction, evaluate options for purchases and associated financing, and place the transaction on hold for further consideration, returning later to complete the transaction. It would be obvious to require identifiers and passwords in order to establish the profile and store transaction data, in order to return to the transaction at a later point in time.

Regarding claims 31-33, Bennett, Dines and Aakers disclose the base claim regarding transferring data within the data processing system from the program manager to the financial screening process (Figure 8, paragraphs 43, 55-57, 88, 156-157). Bennett does not disclose transferring after authentication of a user identifier and password. However, examiner takes Official Notice that it is old and well known to require entering and verification of an identifier and password when using system services for financial transactions. The use of identifiers and passwords enables a system to ensure that the client is a known client and associated files are referenced by the client and not someone committing fraud against the user or user account.

### ***Response to Arguments***

Applicant argues that the combination of Bennett, Dines and Aaker fails to disclose "selecting the available incentive programs from the library of incentive programs through the discretion of a particular retailer servicing a particular producer based on retailer preferences comprising a geographic region that the retailer services, historic sales, and a supplier relationship with one or more suppliers of the incentive program. Examiner notes that the limitation is now addressed by the combination of Bennett, Dines, Aaker and Gittins as detailed above. Bennett discloses the selecting of available incentive programs based on the discretion of a particular retailer based on retailer specified selection criteria. Aaker discloses the technique of marketing through the use of database information in order to target specific benefits to specific customers for increasing customer satisfaction as well as business sales, as is a typical objective of a marketing strategy. Further, Aaker discloses where the factors that comprise such a marketing strategy include geographic, historic sales and relationships as among the considerations. With regards to geographic considerations, Aaker discloses on page 693 that elements in a marketing database for carrying out the described marketing functionality should include mailing address and ZIP code of clients, as well as demographic data such as length of time at a residence and geodemographic cluster data. With regards to historic sales, Aaker discloses on page 689 that considerations include loyal customers and repeat purchasers and page 693 refers to the recency, frequency and monetary transaction history by date, dollar amounts or purchases, etc. With regards to relationships, Aaker discusses the importance of developing and

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nurturing relationships through the cited reference as a consideration in marketing strategy. Additionally, Gittins disclose the element of supplier relationships in program selection. As noted above, the selection criteria including geographic location, historic sales, and supplier relationships are known criteria in program and incentive selection as part of a basic marketing strategy. There would be no value in providing an incentive to a customer in an area where the customer could not take advantage of it. It is old and well known to provide coupons or other incentives to customers within a specified geography, be it via mail based on zip codes, or to a mobile phone device as a customer walks through a shopping mall and an electronic signal is sent as the customer approaches a store. Similarly, it is old and well known to provide incentives to customers based on their historic sales. Whether identifying customers who have not purchased a product before and offering an incentive in order to expand the customer base, or in identifying loyal customers and offering an incentive as a reward for repeat sales, both techniques are known. The use of relationships as a selection criteria is also old and well known. As disclosed by Gittins, identifying a supply base and then referring customers to the selected supply base based on guarantee of business is old and well known. Within the business community, partnering is old and well known and fostering those relationships, as in any sort of networking, provides of means of building relationships which will prove beneficial to the business.

Applicant further argues that the combination of Bennett, Dines and Aaker discloses transferring crop planning data and incentive program data from a program manager to a financial screening process...where an application data capture module

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populates an application for the financial product based on the gathered background data.

Examiner also makes a general note that the claim language related to the particulars of crop data and agricultural producers represents non-functional descriptive language. Whether a library stored in a database consists of incentive programs related to agricultural input products or any other products or services, the use of a database to store incentive programs is disclosed in the art. Similarly, the receiving of data representative of background information is just that regardless of whether the data is crop data or other data and whether the background data is related to one producer or manufacturer or another. The method steps of establishing, selecting, receiving, etc. remain the same regardless of the particulars of the data.

Bennett discloses an integrated system of lenders, sellers and buyers, as shown in Figure 1. The system is an Online Affordability-based Purchasing System and contains the parties involved in the transactions. In paragraph 85, Bennett discloses where the system provides all necessary functionality for selecting a product and loan, and completing the purchase on the user interface, where all necessary forms are provided and the buyer can sign the forms. Likewise, paragraph 88 discloses where the lenders and sellers are integrated into the system. Paragraph 99 particularly discusses the loan screening process where the relevant data is gathered and passed for screening to determine if any of the available loans meet the parameters. Paragraphs 109, 131 and 157 state that the user can purchase a product obtaining a loan, all while visiting the web sales site and in a single session.

With regards to the limitation regarding populating an application, Bennett discloses this feature in paragraph 156 where it is disclosed by information from the buyer's profile and from the underlying transaction are used to pre-fill the forms required to complete the transaction. The automatic populating of forms based on user data is old and well known within the field of electronic transmission of data, where data mapping provides a means by which a user can enter information once and then any number of various forms can be populated using the data.

The newly added limitations have been addressed in the rejection above, Gittins discloses the limitations as stated in claims 28-30. The limitations of claims 31-33 have been discussed in the preceding paragraph. Bennett discloses an integrated system such that information can be passed to various modules for loan screening, form population, transaction completion, all while the user visits one websites during a single session and interacts with the integrated system of lenders, sellers and buyers. The parties are all integrated into one system for completing each of the steps necessary. As stated in the claims, information is passed from a program manager to a screening process via electronic communications. Applicant argues that the present application that information from the program manager to a financial screening process occurs locally within the data processing system. Examiner notes that the same process occurs in the disclosure of Bennett. A data processing system, as disclosed in Figure 1 and the disclosure where an integrated system is disclosed, provides for transfer of data for screening within the "local" integrated system, enabling the buyer to visit one website and conduct all necessary steps in one session. While the element of transfer and

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screening locally do not appear in the claims, examiner notes that the concept is disclosed by Bennett. Further, it is old and well known in the field that computer components and modules can be located at various locations, such as all centrally located at one site, or spread across many sites. In either scenario, the same steps and processes are conducted and the same end results are obtained, it is a mere differing of arrangement.

### ***Conclusion***

Any inquiry concerning this communication should be directed to Jennifer Liversedge whose telephone number is 571-272-3167. The examiner can normally be reached on Monday - Friday, 8:30 AM - 5 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kambiz Abdi can be reached at 571-272-6702. The fax number for the organization where the application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Jennifer Liversedge/



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